

## NOTICE OF RIGHTS AND RESPONSIBILITIES

### Health Care Costs and Reimbursement Procedures

**IF YOU HAVE A CHILD SUPPORT ORDER THAT INCLUDES A PROVISION FOR THE REIMBURSEMENT OF A PORTION OF THE CHILD'S OR CHILDREN'S HEALTH CARE COSTS AND THOSE COSTS ARE NOT PAID FOR BY INSURANCE, THE LAW SAYS:**

**1. NOTICE.** You must give the other parent an itemized statement of the charges that have been billed for any health care costs that are not paid for by insurance. You must give this statement to the other parent within a reasonable time, but no longer than 30 days after those costs were given to you.

**2. PROOF OF FULL PAYMENT.** If you have already paid all of the uninsured costs, you must (1) provide the other parent with proof that you have paid those costs, and (2) ask for reimbursement for the other parent's court-ordered share of those costs.

**3. PROOF OF PARTIAL PAYMENT.** If you have only paid your share of the uninsured costs, you must (1) provide the other parent with proof that you have paid your share, (2) ask that the other parent pay his or her share of the costs directly to the health care provider, and (3) provide the other parent with the information necessary for that parent to be able to pay the bill.

**4. PAYMENT BY NOTIFIED PARENT.** If you receive notice from a parent that an uninsured health care cost has been incurred, you must pay your share of that cost within the time the court orders, or if the court has not specified a period of time, you must make payment either (1) within 30 days from the time you were given notice of the amount due, (2) according to any payment schedule set by the health care provider, (3) according to a schedule agreed to in writing by yourself and the other parent, or (4) according to a schedule adopted by the court.

**5. DISPUTED CHARGES.** If you dispute a charge, you may file a motion in court to resolve the dispute, but only if you pay that charge before filing your motion. If you claim

that the other party has failed to reimburse you for a payment, or the other party has failed to make a payment to the provider after proper notice has been given, you may file a motion in court to resolve the dispute. The court will presume that if uninsured costs have been paid, those costs were reasonable. The court may award attorney fees against a party who has been unreasonable.

**6. COURT-ORDERED INSURANCE COVERAGE.** If a parent provides health care insurance as ordered by the court, that insurance shall be used at all times to the extent that it is available for health care costs.

**a. Burden to prove.** The burden to prove to the court that the coverage is inadequate to meet the child(ren)'s needs is upon the party claiming that inadequacy.

**b. Cost of additional coverage.** If a parent purchases health care insurance in addition to that being ordered, the purchasing parent must pay for all the costs of the additional coverage. In addition, if the parent uses the alternative coverage, that parent must pay for all costs that exceed what would have been incurred under the coverage provided by court order.

**7. PREFERRED HEALTH PROVIDERS.** If the court-ordered coverage designates a preferred health care provider, that provider shall be used at all times consistent with the terms of the health insurance policy. When any party uses a health care provider other than the preferred provider, any health care costs that would have been paid by the preferred health provider had that provider been used shall be the sole responsibility of the party incurring those costs.

# INFORMATION SHEET ON CHANGING A CHILD SUPPORT ORDER

## General Information

The court has just made a child support order in your case. This order will remain the same unless a party to the action requests that the support be changed (modified). An order for child support can be modified only by filing a motion to change child support and serving each party involved in your case. If both parents and the local child support agency (if involved) agree on a new child support amount, you can complete, have all parties sign, and file with the court a *Stipulation to Establish or Modify Child Support and Order* (form FL-350).

## When a Child Support Order May Be Modified

The court takes several things into account when ordering the payment of child support. First, the number of children is considered. Next, the net income of both parents is determined, along with the percentage of time each parent has physical custody of the child(ren). The court considers both parties' tax filing status and may consider hardships, such as a child of another relationship. An existing order for child support may be modified when there has been a significant change in one of the parent's net income or a significant change in the parenting schedule or when a new child is born.

**Examples:** You have been ordered to pay \$500 per month in child support. You lose your job. You will continue to owe \$500 per month, plus 10% interest on any unpaid support, unless you file a motion to modify your child support to a lower amount and the court orders a reduction.

You are currently receiving \$300 per month for child support from the other parent, whose net income has just increased substantially. You will continue to receive \$300 per month unless you file a motion to modify your child support to a higher amount and the court orders an increase.

You are paying child support based upon having physical custody of your child(ren) 30% of the time. After several months it turns out that you actually have physical custody of the child(ren) 50% of the time. You may file a motion to modify child support to a lower amount.

## How to Modify an Existing Child Support Order

### **1. Obtain and fill out the modification forms.**

The forms are available from the court clerk, Family Law Facilitator, your local law library, from the Judicial Council's website at [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov), and from various legal publishers. You will need to complete the following forms:

- *Order to Show Cause* (form FL-300) **or** *Notice of Motion* (form FL-301) **and** *Application for Order and Supporting Declaration* (form FL-310) **or** *Notice of Motion and Motion for Simplified Modification of Order for Child, Spousal or Family Support* (form FL-390).
- *Income and Expense Declaration* (form FL-150) **or** *Financial Statement (Simplified)* (form FL-155).

### **2. File the forms and obtain a hearing date from the court clerk. Write the hearing date on the modification forms. You will have to pay a filing fee. If you cannot afford a filing fee you can request a waiver of the fee by filing an *Application for Waiver of Court Fees and Costs* (form 982(a)(17)).**

### **3. "Serve" the modification forms on the other parent and, if involved, on the local child support agency.**

"Service" means "legally" delivering a copy of the papers. The forms generally must be served no later than 21 calendar days prior to the hearing if serving by personal delivery. The delivery can normally be done by mail but then must be done at least 26 calendar days before the hearing. All service must be done by a person who is at least age 18 **other than you**. This person must serve all papers you completed for the court as well as a blank *Responsive Declaration* (form FL-320) and blank *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155).

### **4. File *Proof of Service* (form FL-330 or FL-335) with the court clerk that the court papers were served on the other parent and, if involved, the local child support agency.**

### **5. Attend the court hearing.**

Bring your most recent two years of tax returns and three most recent pay stubs to the court hearing. The judge will review your modification forms and the other parent's response, listen to both of you, and make an order. You should then prepare a *Findings and Order After Hearing* (form FL-340) with *Child Support Information and Order Attachment* (FL-342).

**If you are unable to complete these forms by yourself, contact the Family Law Facilitator in your county or the Lawyer Referral Service of your local bar association or check the yellow pages of your telephone book under "Attorneys."**